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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,730	06/27/2003	Roger H. Bruning	UNVN 106165	6504
5251 7590 06/25/2008 SHOOK, HARDY & BACON LLP INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BLVD KANSAS CITY, MO 64108-2613				
EXAMINER				
MOSSER, ROBERT E				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
06/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/607,730

Applicant(s)

BRUNING ET AL.

Examiner

ROBERT MOSSER

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **18-50** are rejected under 35 U.S.C. 103(a) as being unpatentable over by Bajer et al (US 6,736,642) herein after referenced as Bajer.

Claims **18-19**, and **41-42**: Bajer teaches a system for teaching critical thinking skills to students(learner) in a computer environment (Abstract) including:

a content module operable to receive, store, and present informational content to a student (Col 3:63-4:15);

a query module operable to receive, store, and present question to a student and further operable to receive and student responses and justifications of said responses

wherein the student responses and their respective justification are submitted concurrently(Figures 8A, 8B);

a coach module operable to provide said student with information to assist the student in forming their responses and respective justifications (Elm 614, Col 13:49-53) wherein said information is provided to the student prior to the learner providing their justification/validation (Col 11:7-16; 12:1-27 teaches the user about assumptions prior to requesting the user to formulate them);

an analysis module operable to analyze the student responses and respective justifications and present the results of the analysis to the student (Col 15:32-36; 16:18-27);

a reference module to store and provide reference material to the student (Elm 616 Figure 6);

an expert module to receive and store and expert's answers and justifications in addition to provide said expert's answers and justifications to the student(Col 11:47-63); and

an interface operable to provide an connection between the student and said system (Figure 1).

In addition to the above Bajer teaches the multiple and simultaneous submission of student provided information types such as assumptions and validations as shown in figure 8b of Bajer. Despite this however, Bajer is arguably silent regarding teaching that these informational type simultaneously entered are an answer and a justification/assumption.

However as Bajer teaches the both the entry of the claimed information type or equivalents thereof, and the use of simultaneous entry of data, the claimed feature represent a combination of known elements as disclosed Bajer. Accordingly It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the answer/response data entry section with the assumption and validation window of Bajer in order to enable the student to alter their answer/response if they discover an error in their logic during their completion of the assumption and validation boxes, or alternatively answer the question portions in an order better suited to their particular learning style.

Claims **20-21, 23, and 46:** Bajer teaches an interaction module including a record of the user's interaction further comprising a transcript generated by the students interaction , student responses, and justification, the interaction of a plurality of students and/or a expert to review the responses and provide feed-back to learner who generated the responses on said learner's progress (Col 16:24-34).

Claim **22, and 36:** The prior art of Bajer discusses the inclusion of group discussions between multiple learners utilizing client computers connected through a network (internet) as taught above however is silent regarding the use of email to facilitate communication between learners. It is Applicant admitted prior art that the use of email to allow communication between students/learners with access to a network linked computer is extremely old and well known in the art. Accordingly it would have been

Art Unit: 3714

obvious to one of ordinary skill in the art at the time of invention to have incorporated email communication between learners (students) in the system of Bajer in order to facilitate communication between learners through known computer communication mediums.

Claims **24-27**: Bajer teaches a collection of authoring tools and interface that allow the author to select a plurality of modules/objects operable to enable the author to select the information provided to the learner, features included and what information the author will receive concerning the learner's answers and justifications (Col 4:18-9:63).

Claim **28**: Bajer describes a module for storing content query, and expert information as programming objects (Col 5:42-47) capable of containing tables, files, and user defined data types.

Claims **29-30**: The prior art of Bajer is silent regarding further defining said analysis module as a spreadsheet application and wherein alternatively said analysis module is operable to perform statistical analysis. However, it is Applicant admitted prior art that using a spreadsheet application as an analysis module to perform a statistical analysis is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a spreadsheet application as an analysis module into Kerwin/691's invention, in order to facilitate information analysis.

Claims **31**, **38-39**, and **44**: Bajer teaches providing informational content and a query as part of a first electronic page and a result as part of a second electronic page (Figures 4-5, Elm 890, Col 12:34-13:22).

Claim **32**: Bajer teaches the utilization of Hypertext Markup Language (html) instructions for the creation of modules (Col 8:42-9:64).

Claims **33-35**, and **43**: Bajer teaches the software components as taught above in the rejection of at least claim 29 and further sets forth for the use of a computer connected to a network/internet (Figure 1) for allowing the transfer of the program aspects of the invention between a client and a company (equivalently understood as a server) (Col 8:42-49).

Claim **37**: Bajer teaches the recording of a transcript of the training session in addition to multiple computer readable code devices enabling the operation for the disclosed software training system including the transfer of informational content, questions, expert answers, and justifications (Figure 1, Col 3:61-4:15; 16:24-27).

Claim **40**: Bajer is silent regarding obtaining data related to site usage or site performance and transmitting said data to a second client computer. However, it is Applicant admitted prior art that obtaining such metrics are old and well known in the

art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate obtaining such metrics into the invention of Bajer, in order to assess site efficiency.

Claim 45: Bajer teaches allowing a user to enter a response (justification) and a justification (validation) in a single electronic page (Figure 8b).

Claims 47-49: Bajer teaches providing informational content to a student in the form of text, audio, and/or video (Patented claim 8).

Claim 50: The prior art of Bajer discusses the entry of text assumptions and validations as taught above, however is arguably silent regarding allowing the use of numeric ratings. It is Applicant admitted prior art that the use of use of numeric ratings is extremely old and well known in the art for establishing confidence levels in student provided answers. Accordingly it would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated use of numeric ratings in the system of Bajer in order to allow the student to quantify their confidence in their assumptions.

Response to Arguments

The Applicant's remarks dated January 28th, 2008 are primarily directed to the presentation of two amendments, which have been addressed in the rejections as presented above.

On a separate point the Applicant contends that "justification" is not equivalent to the "assumption" or "validation" of Bajer (Pages 12-13 of Applicant's remarks). The Applicant further offers that a "justification" as provided by the Applicant provides a reason, rationale, or explanation for the response juxtaposed to the "assumption" or "validation" of Bajer which the Applicant characterizes as offering a "a basis for the response". It is unclear in what manner the Applicant believes that a reason, rationale, or explanation for the response does not represent "a basis for the response" as presented. Specifically with reference to Bajer if the user/student indicates that they assumed that an individual is reasonably dangerous by the presence of a tattoo on the individual with a particular connotation (ex a gang symbol) and indicates that the validation was that the tattoo on the individual was a recognized gang tattoo, then this validation would accordingly set forth both "a basis for the response", and a reason, rationale, or explanation for the response.

The Applicant additionally argues on page 14 of their remarks referenced above that the prior art of Bajer does not enable a user/student to request assistance from a coach however this feature as argued is of a narrower scope than presently claimed.

Official notice

Official notice stating that "using a spreadsheet application as an analysis module to perform a statistical analysis is old and well known in the art" was presented in the Office action of May 22nd, 2006.

Official notice stating that "obtaining data related to site usage or site performance and transmitting said data to a second client computer is old and well known in the art" was presented in the Office action of May 22nd, 2006.

Official notice stating that, "the use of email to allow communication between students/learners with access to a network linked computer is extremely old and well known in the art" was presented in the Office action of May 11th, 2007.

Official notice stating that, "the use of use of numeric ratings is extremely old and well known in the art for establishing confidence levels in student provided answers" was presented in the Office action of May 11th, 2007.

These statements were not objected by the Applicant in their subsequent replies entered October 10th, 2008 and January 28th, 2008 and are now therefore considered Applicant admitted prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT MOSSER whose telephone number is (571)272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

/R. M./
Examiner, Art Unit 3714